

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NOS. 2004-63-C AND 2005-82-C - ORDER NO. 2007-92
FEBRUARY 12, 2007

IN RE: Docket No. 2004-63-C - BellSouth)	ORDER
Telecommunications, Incorporated's)	DISMISSING
Complaint and Request for Summary)	COMPLAINTS
Disposition against NewSouth)	
Communications Corporation)	
)	
AND)	
)	
Docket No. 2005-82-C - BellSouth)	
Telecommunications, Incorporated)	
Complainant/Petitioner v. NuVox)	
Communications, Incorporated,)	
Defendant/Respondent – Enforcement of)	
Interconnection Agreement)	
)	

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Joint Motion of BellSouth Telecommunications, Inc. (BellSouth) and NuVox Communications, Inc. (NuVox) to dismiss, with prejudice, the Complaints of BellSouth dated March 5, 2004 and March 29, 2005.

On March 5, 2004, BellSouth filed with the Commission a Complaint to enforce the audit provisions of the interconnection agreement between BellSouth and NewSouth Communications Corp. (NewSouth) for the State of South Carolina, and to obtain relief for alleged breaches of the NewSouth Agreement, and other matters. Since that time NewSouth has been merged into and become a part of NuVox. On March 29, 2005,

BellSouth filed a complaint with the Commission to enforce the audit provisions of the interconnection agreement between BellSouth and Nuvox for the State of South Carolina and to obtain relief for alleged breaches of the NuVox Agreement.

On December 29, 2006, the FCC approved the merger of BellSouth and AT&T, subject to the voluntary commitments of AT&T, and the parties consummated the merger on that date. The final EEL audit merger condition approved by the FCC states:

“AT&T/BellSouth shall cease all ongoing or threatened audits of compliance....and shall not initiate new EELs audits. “ Therefore, pursuant to the FCC’s announced adoption of a Memorandum Opinion and Order approving the merger, BellSouth became obligated to cease all “ongoing or threatened” EEL audits, as of December 29, 2006. In consideration of the EEL audit merger condition approved by the FCC, BellSouth and NuVox agree that the disputes before the Commission in the above-captioned proceedings are moot. Since the Commission has not yet issued its orders in these proceedings, BellSouth and Nuvox request that the Commission dismiss BellSouth’s Complaints in these proceedings. The Office of Regulatory Staff has no objections to this proposed action.

We have examined the matters referred to by the parties herein, and we agree that the matters raised in the original complaints are moot, pursuant to the merger agreement language. Accordingly, the Joint Motion to Dismiss is granted, with prejudice.


This Order shall remain in full force and effect until further Order of the
Commission.

BY ORDER OF THE COMMISSION:



G. O'Neal Hamilton, Chairman

ATTEST:



C. Robert Moseley, Vice Chairman